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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,005	10/26/2001	Jean-Denis Dube	01393-P0053A	7854

24126 7590 09/15/2003

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EXAMINER

KOHNER, MATTHEW J

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,005

Applicant(s)

DUBE ET AL.

Examiner

Matthew J Kohner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1,7-9, 12-13 and 16-18 is/are rejected.
- 7) ☒ Claim(s) 2-6,10,11 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on 10/27/200. It is noted, however, that applicant has not filed a certified copy of the Canadian application as required by 35 U.S.C. 119(b).

Further, the figures in the Canadian application do not appear to be the same as the figures in the US application. Therefore, a translation of the Canadian application is required in order to determine which subject matter in the US application should be given priority.

Additionally, the Canadian application appears to be missing at least one drawing (Fig. 2) since Fig. 1 and Fig 3 are the only drawings in the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 7-9, 12 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,000,554 to Hughes.

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Hughes discloses a mobile screening unit (Col. 3, lines 35+) for screening bulk material wherein the unit comprises:

- an elongated mobile support frame (50) having a longitudinal axis;
- a first screener (See Fig. 1 and 2) mounted to the support frame and extending longitudinally thereon, the first screener having:
 - an inlet (Col. 3, lines 39+) for receiving bulk material containing large sized, medium sized and small sized particles,
 - a first outlet (Col. 4, lines 23+) for releasing large sized particles, and
 - a second outlet (Col. 4, lines 20+) for releasing medium-sized and small sized particles, the first screener being used for screening the bulk material along a first direction substantially parallel to the longitudinal axis of the support frame (See Fig. 2); and
- a second screener (See Fig. 1 and 2) mounted to the support frame and extending longitudinally thereon, the second screener having:
 - an inlet (Col. 4, lines 34+) for receiving medium-sized and small-sized particles conveyed from the first screener,
 - a first outlet for releasing medium-sized particles (Col. 4, lines 48+), and
 - a second outlet for releasing small-sized particles (Col. 4, lines 40+), the second screener being used for screening the medium-sized particles from the small sized particles along a second direction substantially parallel to the longitudinal axis of the support frame (See Fig. 2).

In regard to claims 7-9, Hughes discloses a first and second screener which vibrates (Col. 4, lines 6+).

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In regard to claim 12, see Fig. 1.

In regard to claims 16-18, Hughes discloses the apparatus described above. Additionally, the second longitudinal direction (direction of the second conveyor) is substantially parallel to the first longitudinal direction in that it is directly under the first conveyor.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes.

Hughes does not specifically disclose hydraulic support legs for stabilizing the frame. However, such legs are well known in the portable screener art (See e.g. US Patent No 5,279, 951 to Hughes Col. 2, lines 49+). Therefore, it would be obvious to one of ordinary skill in the art to add such legs. Additionally, there is motivation to do so because the legs add support.

Allowable Subject Matter

Claim 15 is allowed.

Claims 2-6, 10-11 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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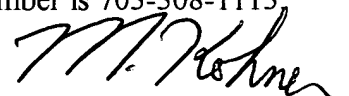
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 703-305-8496. The examiner can normally be reached on Mon-Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on 703-306-4173. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Matthew J. Kohner
Examiner
Art Unit 3653

MJK
September 6, 2003



DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600